

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF NEW YORK**

CONSTITUTION PIPELINE  
COMPANY, LLC

Plaintiff,

v.

A PERMANENT EASEMENT FOR 0.24  
ACRES AND TEMPORARY EASEMENT  
FOR 0.22 ACRES IN DAVENPORT,  
DELAWARE COUNTY, NEW YORK,  
TAX PARCEL NUMBER 34.-1-48,  
THOMAS C. EARLE, et al.

Defendants.

CIVIL ACTION

Case No. 3:14-cv-02045-NAM-RFT

**Electronically Filed**

**ORDER**

AND NOW, this 25<sup>th</sup> day of February, 2015, upon consideration of Plaintiff's Omnibus Motion for Preliminary Injunction for Possession of Rights of Way by February 16, 2015 Pursuant to the Natural Gas Act and Federal Rules of Civil Procedure 71.1 and 65, and the documents and arguments submitted in reference thereto, and the Motion is hereby GRANTED and:

(a) Upon filing the bond required below, beginning February 16, 2015, Plaintiff Constitution Pipeline Company, LLC ("Constitution") is granted access to, possession of and entry to the following Rights of Way:

1. A permanent right of way and easement, containing 0.24 acres, as described as "Area of Permanent Right of Way" in Exhibit A attached hereto, for the purpose of constructing, operating, maintaining, altering, repairing, changing the size of, replacing and removing a pipeline and all related equipment and appurtenances thereto (including but not limited to meters, fittings, tie-overs, valves, cathodic protection equipment and launchers and receivers) for the transportation of natural gas, or its byproducts, and other substances as approved by the Federal Energy Regulatory Commission pursuant to the Natural Gas Act and the Order of

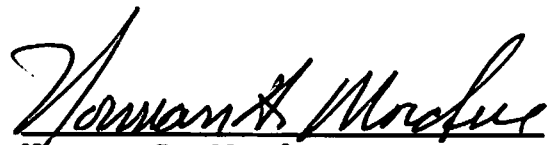
the Federal Energy Regulatory Commission dated December 2, 2014, Docket Nos. CP13-499-000 and CP13-502-000, 149 FERC ¶ 61,199 (2014); together with all rights and benefits necessary or convenient for the full enjoyment or use of the right of way and easement. Defendants shall have a right of ingress and egress across the permanent right of way, but Defendants shall not build any permanent structures on said permanent right of way or any part thereof, shall not change the grade of said permanent right of way, or any part thereof, shall not plant trees on said permanent right of way, or any part thereof, or use said permanent right of way or any part thereof for a road, or use said permanent right of way or any part thereof in such a way as to interfere with Plaintiff's immediate and unimpeded access to said permanent right of way, or otherwise interfere with Plaintiff's lawful exercise of any of the rights herein granted without first having obtained Plaintiff's approval in writing, and Defendants will not permit others to do any of said acts without first having obtained Plaintiff's approval in writing, except that the landowner may construct a single driveway that crosses the permanent right of way perpendicularly after providing reasonable notice to Plaintiff provided that Defendants do not excavate or change the grade of the permanent right of way during construction of said driveway. Plaintiff shall have the right to cut the driveway if necessary to access the pipeline, but will restore the driveway to its original condition. Within the permanent right of way, Plaintiff shall also have the right from time to time at no additional cost to Defendants to cut and remove all trees including trees considered as a growing crop, all undergrowth and any other obstructions that may injure, endanger or interfere with the construction and use of said pipeline and all related equipment and appurtenances thereto.

2. Temporary easement of 0.22 acres, as described as "Area of Temporary Workspace" in Exhibit A attached hereto, for use during the pipeline construction and restoration period only for the purpose of ingress, egress and regress and to enter upon, clear off and use for construction and all activities required by the Order of the Federal Energy Regulatory Commission dated December 2, 2014, Docket Nos. CP13-499-000 and CP13-502-000, 149 FERC ¶ 61,199 (2014).

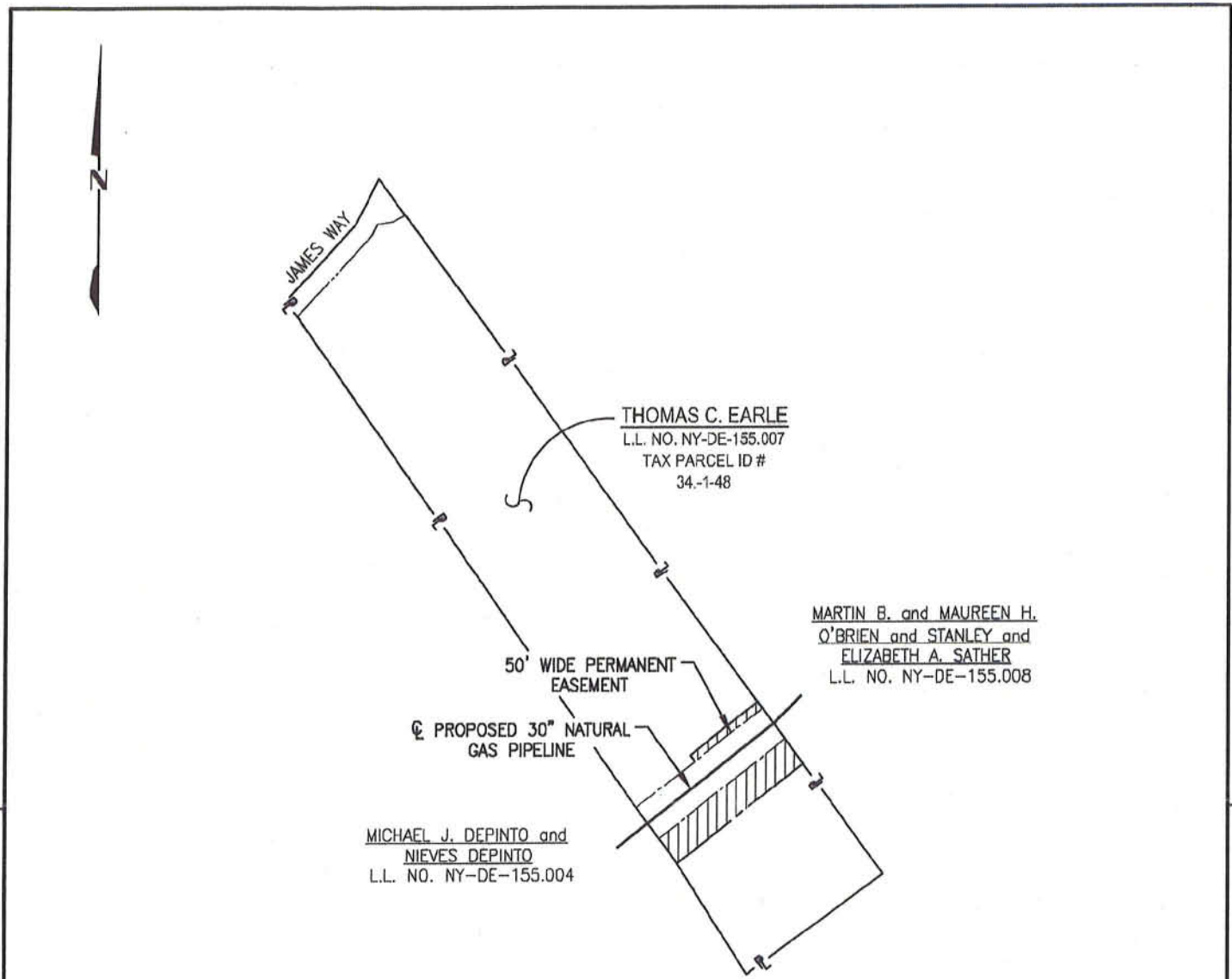
(b) Constitution shall post a bond in the amount of \$3,600.00 as security for the payment of just compensation to Defendants.

(c) Constitution shall record this Order in the County Clerk's Office of Delaware County, New York.

IT IS SO ORDERED.

  
**Norman A. Mordue**  
**Senior U.S. District Judge**

**EXHIBIT A**



## NOTES:

1. BEARINGS SHOWN ARE BASED ON NAD 83, UTM ZONE 18N.

2. LENGTH OF PIPELINE . . . . . 208.41'

AREA OF PERMANENT RIGHT OF WAY . . . . . 0.24 AC.

AREA OF TEMPORARY WORKSPACE . . . . . 0.22 AC.

THE INFORMATION SHOWN ON THIS DRAWING IS FROM FIELD SURVEY PERFORMED BY CONSTITUTION PIPELINE COMPANY, LLC FOR THE SOLE PURPOSE OF CREATING A RIGHT OF WAY ACQUISITION AND REPRESENTS THE CONDITIONS AS THEY EXIST ON THE GROUND AS OF THE SURVEY.

NYSPLS LIC. NO. 050820

DONALD P. SCHUL


MASER CONSULTING P.A.

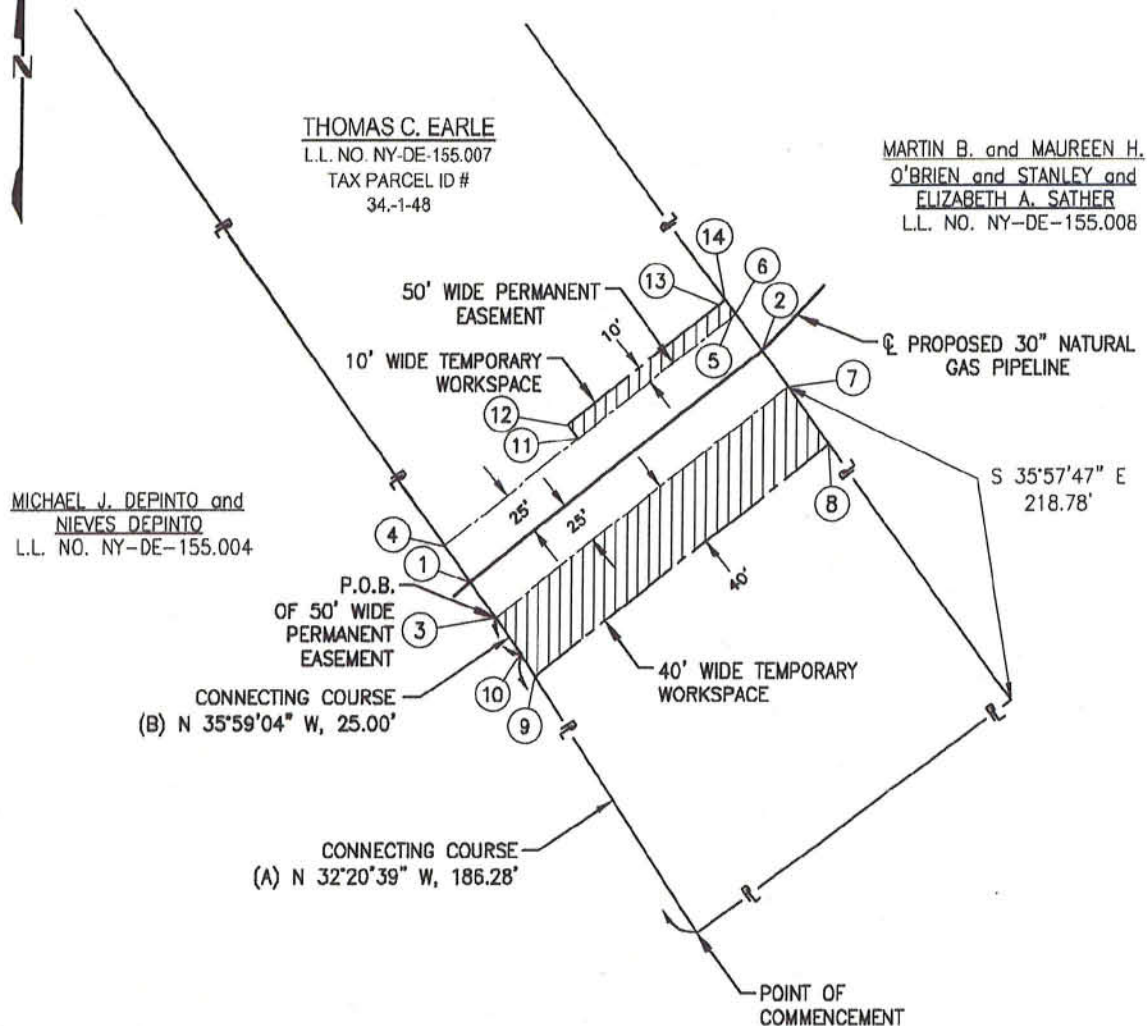
DATE:

8/21/14



SCALE IN FEET

DRAWING NO. 26-03-70/0001-83		REFERENCE TITLE ALIGNMENT SHEET		CONSTITUTION PIPELINE COMPANY, LLC PROPOSED 30" NATURAL GAS PIPELINE CROSSING PROPERTY OF THOMAS C. EARLE TOWN OF DAVENPORT DELAWARE COUNTY, NEW YORK				 CONSTITUTION PIPELINE		
NO.	DATE	BY	REVISION DESCRIPTION	W.O. NO.	CHK.	APP.	DRAWN BY: GIE	DATE: 04-25-13	ISSUED FOR BID:	SCALE: 1"= 200'
C	04-29-14	GIE	REVISED - ISSUED FOR CONDEMNATION APPROVAL	1110415			CHECKED BY: MAC	DATE: 05-16-13	ISSUED FOR CONSTRUCTION:	
D	05-09-14	GIE	REVISED - ISSUED FOR CONDEMNATION APPROVAL	1110415			APPROVED BY: DPS	DATE: 06-15-14	DRAWING NUMBER: 26-06-85/80.99-1-2	SHEET 1
D	08-04-14	GIE	APPROVED	1110415			WD: 1110415			OF 5
1	07-02-14	GIE	REVISED WS - ISSUED FOR CONDEMNATION APPROVAL	1110415						
2	08-18-14	GIE	APPROVED	1110415						



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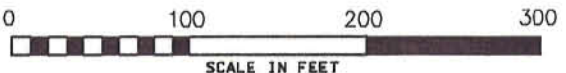
AREA OF TEMPORARY WORKSPACE . . . . . 0.22 AC.


THE INFORMATION SHOWN ON THIS DRAWING IS FROM FIELD SURVEY PERFORMED BY CONSTITUTION PIPELINE COMPANY, LLC FOR THE SOLE PURPOSE OF CREATING A RIGHT OF WAY ACQUISITION AND REPRESENTS THE CONDITIONS AS THEY EXIST ON THE GROUND AS OF THE SURVEY.

NYSPLS LIC. NO. 050820  
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MASER CONSULTING P.A.

DATE:

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NO.	DATE	BY	REVISION DESCRIPTION	W.O. NO.	CHK.	APP.	DRAWN BY: GIE	DATE: 04-25-13	ISSUED FOR BID:	SCALE: 1"= 100'
C	04-29-14	GIE	REVISED - ISSUED FOR CONDEMNATION APPROVAL	1110415			CHECKED BY: MAC	DATE: 05-16-13	ISSUED FOR CONSTRUCTION:	
D	05-06-14	GIE	REVISED - ISSUED FOR CONDEMNATION APPROVAL	1110415			APPROVED BY: DPS	DATE: 08-15-14	DRAWING NUMBER: 26-06-85/80.99-2-2	SHEET 2
0	06-04-14	GIE	APPROVED	1110415			WO: 1110415			OF 5
1	07-02-14	GIE	REVISED HS - ISSUED FOR CONDEMNATION APPROVAL	1110415						
2	08-16-14	GIE	APPROVED	1110415						



PROPOSED 30" NATURAL GAS PIPELINE

<u>POINT#</u>	<u>BEARING</u>	<u>DISTANCE</u>
1-2	N 51°17'39" E	208.41'

PROPOSED 50' WIDE PERMANENT EASEMENT

<u>POINT#</u>	<u>BEARING</u>	<u>DISTANCE</u>
3-4	N 35°59'04" W	50.06'
4-5	N 51°17'39" E	205.78'
5-6	N 43°49'07" E	2.68'
6-7	S 35°57'47" E	50.41'
7-3	S 51°17'39" W	208.40'

PROPOSED 40' WIDE TEMPORARY WORKSPACE


<u>POINT#</u>	<u>BEARING</u>	<u>DISTANCE</u>
3-7	N 51°17'39" E	208.40'
7-8	S 35°57'47" E	40.05'
8-9	S 51°17'39" W	209.35'
9-10	N 32°20'39" W	15.12'
10-3	N 35°59'04" W	25.00'

PROPOSED 10' WIDE TEMPORARY WORKSPACE

<u>POINT#</u>	<u>BEARING</u>	<u>DISTANCE</u>
11-12	N 38°42'21" W	10.00'
12-13	N 51°17'39" E	108.12'
13-14	N 43°49'07" E	3.82'
14-6	S 35°57'47" E	10.16'
6-5	S 43°49'07" W	2.68'
5-11	S 51°17'39" W	108.78'

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C	04-29-14	GIE	REVISED - ISSUED FOR CONDEMNATION APPROVAL	1110415			CHECKED BY: MMC	DATE: 05-16-13	ISSUED FOR CONSTRUCTION:	
D	05-09-14	GIE	REVISED - ISSUED FOR CONDEMNATION APPROVAL	1110415			APPROVED BY: DPS	DATE: 08-15-14	DRAWING NUMBER: 26-06-85/80.99-3-2	SHEET 3
0	08-04-14	GIE	APPROVED	1110415			WO: 1110415			OF 5
1	07-02-14	GIE	REVISED WS - ISSUED FOR CONDEMNATION APPROVAL	1110415						
2	08-18-14	GIE	APPROVED	1110415						

DESCRIPTION FOR THE PROPOSED 50' WIDE PERMANENT EASEMENT  
ACROSS PROPERTY OF  
THOMAS C. EARLE  
TAX PARCEL ID #34.-1-48  
DEED BOOK 713, PAGE 1096  
LOCATED IN TOWN OF DAVENPORT  
DELAWARE COUNTY, NEW YORK

Commencing at a point in the Southwest boundary line of the aforementioned parcel, said point being the South corner and Point of Commencement; thence along the Southwest boundary line of said parcel of land N 32°20'39" W a distance of 186.28 feet to a point; Thence, N 35°59'04" W a distance of 25.00 feet to a point, said point being the Point of Beginning;

Thence, along said Southwest boundary line, N 35°59'04" W a distance of 50.06 feet to a point;

Thence, N 51°17'39" E a distance of 205.78 feet to a point;

Thence, N 43°49'07" E a distance of 2.68 feet to a point located in the division line between lands of Martin B. O'Brien, et al, to the Northeast and lands of Thomas C. Earle to the Southwest;

Thence, along said division line, S 35°57'47" E a distance of 50.41 feet to a point;


Thence, through the lands of Thomas C. Earle, S 51°17'39" W a distance of 208.40 feet to the Point of Beginning and containing 0.24 acre.

All this is more fully shown on Drawing No. 26-06-85/80.99-1 thru 5 entitled  
"Constitution Pipeline Company, LLC - Property of Thomas C. Earle - Located in Town of Davenport, -  
Delaware County, New York" dated August 18, 2014.



8/21/14  
DATE

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0	06-04-14	GIE	APPROVED	1110415			WO: 1110415			OF 5
1	07-02-14	GIE	REVISED NIS - ISSUED FOR CONDEMNATION APPROVAL	1110415						
2	08-18-14	GIE	APPROVED	1110415						

## DESCRIPTION FOR THE PROPOSED 40' TEMPORARY WORKSPACE

Beginning at a point in the Southwest boundary line, said point being the Point of Beginning for the said Proposed 50' Permanent Easement;

Thence, N 51°17'39" E a distance of 208.40 feet to a point located in the division line between lands of Martin B. O'Brien, et al, to the Northeast and lands of Thomas C. Earle to the Southwest;

Thence, along said division line, S 35°57'47" E a distance of 40.05 feet to a point;

Thence, through the lands of Thomas C. Earle, S 51°17'39" W a distance of 209.35 feet to a point in said Southwest boundary line;

Thence, along said Southwest boundary line, N 32°20'39" W a distance of 15.12 feet to a point;

Thence, N 35°59'04" W a distance of 25.00 feet to the Point of Beginning and containing 0.19 acre.

The 0.19 acre being part of the 0.22 acre total, as shown on Sheet 1, "Area of Temporary Workspace".

## DESCRIPTION FOR THE PROPOSED 10' TEMPORARY WORKSPACE

Beginning at a point located N 24°35'14" E a distance of 111.25 feet from the said Point of Beginning for the said Proposed 50' Permanent Easement;

Thence, N 38°42'21" W a distance of 10.00 feet to a point;

Thence, N 51°17'39" E a distance of 108.12 feet to a point;

Thence, N 43°49'07" E a distance of 3.82 feet to a point located in the division line between lands of Martin B. O'Brien, et al, to the Northeast and lands of Thomas C. Earle to the Southwest;

Thence, along said division line, S 35°57'47" E a distance of 10.16 feet to a point;

Thence, through the lands of Thomas C. Earle, S 43°49'07" W a distance of 2.68 feet to a point;


Thence, S 51°17'39" W a distance of 108.78 feet to the Point of Beginning and containing 0.03 acre.

The 0.03 acre being part of the 0.22 acre total, as shown on Sheet 1, "Area of Temporary Workspace".

NYSPLS LIC. NO. 050820  
DONALD P. SCHEL  
MASER CONSULTING, P.A.

DATE:

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0	08-04-14	GE	APPROVED	1110415			WO: 1110415			OF 5
1	07-02-14	GE	REVISED BS - ISSUED FOR CONDEMNATION APPROVAL	1110415						
2	08-18-14	GE	APPROVED	1110415						